

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE WESTERN DISTRICT OF WASHINGTON**

**CASSANDRA VALLIANOS**, individually  
and on behalf of all others similarly situated,

*Plaintiff,*

v.

**HOWARD SCHULTZ**, a Washington  
individual,

*Defendant.*

Case No. 2:19-cv-00464

**CLASS ACTION COMPLAINT**

**DEMAND FOR JURY TRIAL**

**CLASS ACTION COMPLAINT**

Plaintiff Cassandra Vallianos (“Vallianos” or “Plaintiff”) brings this Class Action Complaint and Demand for Jury Trial against Defendant Howard Schultz. (“Schultz” or “Defendant”) to stop Schultz from violating the Telephone Consumer Protection Act by sending unsolicited, autodialed text messages to consumers, including to consumers who have registered their phone numbers on the national Do Not Call registry (“DNC”), and to otherwise obtain injunctive and monetary relief for all persons injured by Schultz’s conduct. Plaintiff, for her

1 Complaint, alleges as follows upon personal knowledge as to herself and her own acts and  
2 experiences, and, as to all other matters, upon information and belief, including investigation  
3 conducted by her attorneys.

#### 4 INTRODUCTION

5 1. Schultz, the founder of Starbucks, commenced a book tour on January 28, 2019 to  
6 promote his new book “From the Ground Up.” As Schultz himself wrote in an open letter “I’ll  
7 be in many cities talking about my book, my childhood, and sharing thoughts about the changing  
8 roles of leadership, business and citizenship in America.”<sup>1</sup>

9 2. Schultz, in an interview with the New York Times on January 27, 2019, said he  
10 “planned to crisscross the county for the next three months as part of a **book tour** before  
11 deciding whether to enter the presidential race.”<sup>2</sup> [emphasis added]

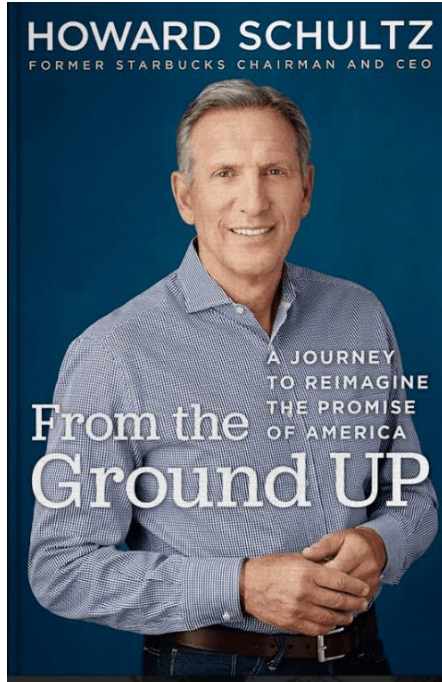
12 3. Schultz’s book – “From the Ground Up – A Journey to Reimagine the Promise of  
13 America” is sold in book stores and online between \$14 and \$18.<sup>3</sup>

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23 <sup>1</sup> <http://gcrmag.com/news/article/starbucks-founder-howard-schultz-announces-book-tour>

24 <sup>2</sup> <https://www.nytimes.com/2019/01/27/us/politics/howard-schultz-president-2020.html?module=inline>

<sup>3</sup> <https://www.barnesandnoble.com/w/from-the-ground-up-howard-schultz/1129662524?ean=9780593132548#/>



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4. In order to promote his book and to explore his potential presidential bid as a centrist, Schultz engaged in text message marketing in violation of the Telephone Consumer Protection Act (“TCPA”).

5. On information and belief, Schultz or his agents, collected voter records of individuals who registered as “No Party Affiliation” (who may be drawn to Schultz’s message and his book) and sent them text messages directing them to his website where they could watch one of his speaking engagements *and* where they could purchase his book “From the Ground Up.”

6. Schultz sends these solicitation text messages without any consent from the text recipients.

7. To make matters worse, Schultz sent these solicitation text messages to consumer phone numbers that are registered on the DNC for the specific purpose of avoiding these types of unwanted text messages.

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<sup>4</sup> <https://www.howardschultz.com/>



with a book signing afterwards to promote his book, other times, he would place his book next to him during his speech or interview.

17. On January 28, 2019 Schultz appeared on stage for an interview at Barnes & Noble in front of a 400-person audience to promote his book and message.



*Figure 1: "From the Ground Up" Book Tour January 28th Event in New York's Barnes & Noble*



<sup>5</sup> <https://www.youtube.com/watch?v=gQ0fBLD5cuA>

1           18.     On January 30, 2019 Arizona State University hosted Schultz for an event called  
2 “From the Ground Up.” At the event, the University book store provided books for purchase  
3 prior to the event<sup>6</sup> and during the event Schultz prominently displayed the book for the crowd.



10           19.     On January 31, 2019 Schultz held an event in the Moore Theatre in Seattle,  
11 Washington discussing his new book “From the Ground Up” which was made available for sale  
12 in the lobby of the Moore Theatre.<sup>7 8</sup>



Figure 2: “From the Ground Up” Book Tour at the Moore Theatre in Seattle on January 31, 2019

<sup>6</sup> <https://asuevents.asu.edu/content/ground-conversation-asu-president-michael-m-crow-and-howard-schultz>

<sup>7</sup> <https://www.elliottbaybook.com/event/howard-schultz>

<sup>8</sup> <https://www.youtube.com/watch?v=SDOpLSSetbw>





Figure 3: "From the Ground Up" Books Sold in the Lobby of Moore Theatre on January 30, 2019.

20. On February 4, 2019 in Chicago Schultz had an event with Mellody Hobson called "From the Ground Up: In Conversation with Howard Schultz."<sup>9</sup>



Figure 4: "From the Ground Up" Book Tour in Chicago January 4, 2019

21. On February 5, 2019 Schultz spoke at the Battle Theatre at Harvard University as part of "a discussion of his latest book *From the Ground Up*."<sup>10</sup>

<sup>9</sup> <https://www.chicagoideas.com/events/from-the-ground-up-in-conversation-with-howard-schultz>

<sup>10</sup> [http://www.harvard.com/event/howard\\_schultz/](http://www.harvard.com/event/howard_schultz/)



Figure 5: "From the Ground Up" Book Tour at Harvard University February 5, 2019

22. On February 14, 2019 Schultz hosted an event "Howard Schultz In Conversation with Doris Kearns Goodwin" in Washington DC.<sup>11 12</sup>



Figure 6: "From the Ground Up" Book Tour in Washington DC on February 14, 2019

23. On February 21, 2019 Schultz held an event in the Ann and Jerry Moss Theatre in Santa Monica where he discussed his book "From the Ground Up" with Maria Shriver.<sup>13</sup>

<sup>11</sup> <https://www.sixthandi.org/event/howard-schultz/>

<sup>12</sup> <https://www.youtube.com/watch?v=p2tgI5MShWg>

<sup>13</sup> <https://livetalksla.org/events/howard-schultz/>





*Figure 7: "From the Ground Up" Book Tour in Santa Monica on February 21, 2019*

24. On March 6, 2019 Schultz spoke at Rice University which hosted a "discussion on leadership and the lessons he has learned over the course of his life and business career. Schultz ... also share[d] insights from his biography, 'From the Ground Up: A Journey to Reimage the Promise of America.'"<sup>14 15</sup>

25. On March 11, 2019 Schultz held an event at the Carter Center in Atlanta with Van Jones called "From the Ground Up." The event was promoted and sold for \$28 per ticket which "reflects the price of a first edition copy of the book plus tax."<sup>16</sup>

<sup>14</sup> <https://news.rice.edu/2019/03/04/howard-schultz-to-discuss-leadership-business-career-at-rice-march-6/>

<sup>15</sup> <https://www.eventbrite.com/e/a-conversation-with-asu-president-michael-m-crow-and-howard-schultz-registration-55114298350>

<sup>16</sup> <https://www.facebook.com/events/the-carter-center/sold-out-howard-schultz-with-van-jones-from-the-ground-up/598454247277096/>



*Figure 8: “From the Ground Up” Book Tour in Atlanta, Georgia on March 11, 2019*

26. On March 13, 2019 Schultz continued his book tour at Miami-Dade College. Like many of the other engagements, after speaking he “stepped down from a stage and signed copies of his books.”<sup>17</sup>



27. In order to advertise the speaking engagement and book signing at Miami Dade College, Schultz sent out unsolicited text messages to consumers.

28. The text messages were sent out with a link, directing consumers to Schultz’s website:

<sup>17</sup> <https://www.miamiherald.com/news/politics-government/national-politics/article227455289.html>

<sup>18</sup> <https://www.miamiherald.com/news/politics-government/national-politics/article227455289.html>

Howard Schultz will be speaking in Miami at 12:30! Watch live: <https://hs.media/mia-a030>

29. When a consumer visits <https://hs.media/mia030>, they are lead directly to the homepage <https://www.howardschultz.com>.

30. On Shultz's homepage HowardSchultz.com, consumers are provided with an image of Schultz's book "From the Ground Up," as well as an "ORDER NOW" button to purchase a copy between \$14 - \$18.

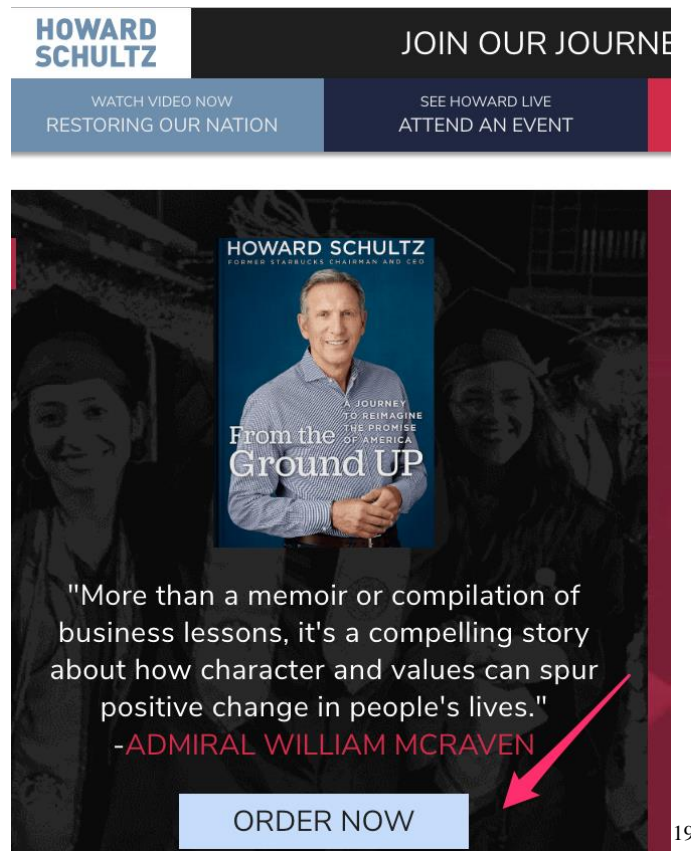


Figure 9: "Order Now" button on HowardSchultz.com Homepage

<sup>19</sup> <https://www.howardschultz.com/>

**Schultz Sent Unsolicited Autodialed Text Messages to Consumers**

31. Upon information and belief, Schultz collected voter records to determine who is registered as being “No Party Affiliation” who may be drawn to his book and political platform. He then targeted those consumers with autodialed solicitation text messages to promote his book and his speaking engagements.

32. In sending the unsolicited text messages at issue, Defendant, or a third party acting on its behalf, used an automatic telephone dialing system; hardware and/or software with the capacity to store or produce cellular telephone number to be called, using a random or sequential number generator. This is evident from the circumstances surrounding the text messages, including the ability to trigger an automated response by replying “STOP,” the text messages’ commercial and generic content, and that substantively identical texts were sent to multiple recipients, which is consistent with the use of an automatic telephone dialing system to send text messages.

33. Defendant sent text messages using phone number 866-457-1676.

34. Defendant Schultz sent multiple unsolicited text messages to consumer phone numbers, regardless of whether they were registered on the DNC.

**Plaintiff Received Unsolicited Autodialed Text Messages to Her Cell**

**Phone Despite Being on the DNC List**

35. On November 28, 2006, Plaintiff Vallianos registered her cellular phone number on the DNC in order to avoid receiving unwanted phone and text solicitations.

36. Her cellular phone number is not currently associated with a business and is for personal use.

37. On the website FLVOTERS.COM, Vallianos is listed as being “No Party Affiliation” based on how she voted in previous elections:

Vallianos, Cassandra Loretta was born [REDACTED] is female, registered as No Party Affiliation, residing at [REDACTED] Sunrise, Florida [REDACTED]. Florida voter ID number [REDACTED]. Her telephone number is [REDACTED] 7170. Her email address is [REDACTED]. This is the most recent information, from the Florida voter list as of 31 January 2019.

Previous information:

31 May 2018 voter list: Cassandra Loretta Vallianos, [REDACTED] No Party Affiliation. ←

30 June 2015 voter list: Cassandra Loretta Vallianos, [REDACTED] No Party Affiliation.

31 May 2012 voter list: Cassandra L. Vallianos, [REDACTED] No Party Affiliation.

38. On March 13, 2019 at 11:53 AM, Vallianos received an unsolicited, autodialed text message to her cell phone from the Defendant from the phone number 866-457-1676:



39. When 866-457-1676 is called, the number is not in service.

40. On March 13, 2019 at 12:04 PM, Vallianos received a second unsolicited, autodialed text message from Defendant using phone number 855-266-4158 on her cellular phone:

<sup>20</sup> <https://flvoters.com/pages/v100494.html>





41. When 855-266-4158 is called, the number is also not in service.

42. Plaintiff has never had a relationship with Schultz, and has never provided Schultz express written consent to contact her.

43. The unauthorized text messages sent by Schultz, as alleged herein, have harmed Plaintiff in the form of annoyance, nuisance, and invasion of privacy, and disturbed Vallianos's use and enjoyment of her cellular phone, in addition to the wear and tear on the phones' hardware (including the phones' battery) and the consumption of memory on the phone.

44. In addition, Defendant violated the DNC by sending 2 solicitation text messages within a 1-year period to Plaintiff's phone number that was registered on the Do Not Call registry.

45. Seeking redress for these injuries, Vallianos, on behalf of herself and two Classes of similarly situated individuals, brings suit under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*, which prohibits unsolicited autodialed text messages to cellular telephones, including solicitation text messages to a phone number protected by the DNC.

## CLASS ALLEGATIONS

### Class Treatment Is Appropriate for Plaintiff's TCPA Claims

46. Plaintiff brings this action pursuant to Federal Rule of Civil Procedure 23(b)(2) and Rule 23(b)(3) on behalf of herself and all others similarly situated and seeks certification of the following Classes:

**Autodialed No Consent Class:** All persons in the United States who from four years prior to the filing of this action through class certification (1) Defendant (or an agent acting on behalf of Defendant) text messaged, (2) on the person's cellular telephone number, (3) using a text messaging platform substantially similar to the text messaging platform Defendant used to text message Plaintiff, (4) for whom Defendant claims (a) it obtained prior express consent in the same manner as Defendant claims it supposedly obtained prior express consent to text message Plaintiff, or (b) it did not obtain prior express consent.

**Do Not Call Registry Class:** All persons in the United States who from four years prior to the filing of this action through class certification (1) Defendant (or an agent acting on behalf of Defendant) texted more than one time; (2) within any 12-month period (3) where the person's telephone number had been listed on the DNC for at least thirty days; (4) for a substantially similar reason that Defendant texted Plaintiff; and (5) for whom Defendant claims (a) it obtained prior express consent in the same manner as Defendant claims it supposedly obtained prior express consent to text message Plaintiff, or (b) Defendant did not obtain prior express consent.

47. The following individuals are excluded from the Classes: (1) any Judge or Magistrate presiding over this action and members of their families; (2) Defendant, its subsidiaries, parents, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest and their current or former employees, officers and directors; (3) Plaintiff's attorneys; (4) persons who properly execute and file a timely request for exclusion from the Classes; (5) the legal representatives, successors or assigns of any such excluded persons; and (6) persons whose claims against Defendant have been fully and finally adjudicated and/or released. Plaintiff anticipates the need to amend the Class definition following appropriate discovery.

48. **Numerosity:** On information and belief, there are hundreds, if not thousands of members of the Classes such that joinder of all members is impracticable.

1           49.     **Commonality and Predominance:** There are many questions of law and fact  
2 common to the claims of Plaintiff and the Classes, and those questions predominate over any  
3 questions that may affect individual members of the Classes. Common questions for the Classes  
4 include, but are not necessarily limited to the following:

- 5                   (a) whether Defendant used an automatic telephone dialing system to send text  
6                   messages to Plaintiff and the members of the Autodialed No Consent Class;
- 7                   (b) whether Defendant sent unsolicited text messages to phone numbers  
8                   registered on the DNC;
- 9                   (c) whether Defendant's conduct constitutes a violation of the TCPA; and
- 10                  (d) whether members of the Classes are entitled to treble damages based on the  
11                  willfulness of Defendant's conduct.

12           50.     **Adequate Representation:** Plaintiff will fairly and adequately represent and  
13 protect the interests of the Classes, and has retained counsel competent and experienced in class  
14 actions. Plaintiff has no interests antagonistic to those of the Classes, and Defendant has no  
15 defenses unique to Plaintiff. Plaintiff and her counsel are committed to vigorously prosecuting  
16 this action on behalf of the members of the Classes, and have the financial resources to do so.  
Neither Plaintiff nor her counsel has any interest adverse to the Classes.

17           51.     **Appropriateness:** This class action is also appropriate for certification because  
18 Defendant has acted or refused to act on grounds generally applicable to the Classes and as a  
19 whole, thereby requiring the Court's imposition of uniform relief to ensure compatible standards  
20 of conduct toward the members of the Classes and making final class-wide injunctive relief  
21 appropriate. Defendant's business practices apply to and affect the members of the Classes  
22 uniformly, and Plaintiff's challenge of those practices hinges on Defendant's conduct with  
23 respect to the Classes, not on facts or law applicable only to Plaintiff. Additionally, the damages  
24 suffered by individual members of the Classes will likely be small relative to the burden and

1 expense of individual prosecution of the complex litigation necessitated by Defendant's actions.  
2 Thus, it would be virtually impossible for the members of the Classes to obtain effective relief  
3 from Defendant's misconduct on an individual basis. A class action provides the benefits of  
4 single adjudication, economies of scale, and comprehensive supervision by a single court.

5 **FIRST CAUSE OF ACTION**

6 **Telephone Consumer Protection Act**  
7 **(Violations of 47 U.S.C. § 227)**  
8 **(On Behalf of Plaintiff and the Autodial No Consent Class)**

9 52. Plaintiff repeats and realleges paragraphs 1 through 51 of this Complaint and  
10 incorporates them by reference.

11 53. Defendant and/or its agents sent unwanted solicitation text messages to cellular  
12 telephone numbers belonging to Plaintiff and the other members of the Autodialed No Consent  
13 Class using an autodialer.

14 54. These solicitation text messages were sent *en masse* without the consent of the  
15 Plaintiff and the other members of the Autodialed No Consent Class to receive such solicitation  
16 text messages.

17 55. Defendant's conduct was negligent, wilful, or knowing.

18 56. Defendant has, therefore, violated 47 U.S.C. § 227(b)(1)(A)(iii). As a result of  
19 Defendant's conduct, Plaintiff and the other members of the Autodialed No Consent Class are  
20 each entitled to between \$500 and \$1,500 for each and every text message.

21 **SECOND CAUSE OF ACTION**

22 **Telephone Consumer Protection Act**  
23 **(Violation of 47 U.S.C. § 227)**  
24 **(On Behalf of Plaintiff and the Do Not Call Registry Class)**

57. Plaintiff repeats and realleges the paragraphs 1 through 51 of this Complaint and  
incorporates them by reference.

58. The TCPA's implementing regulation, 47 C.F.R. § 64.1200(c), provides that "[n]o person or entity shall initiate any telephone solicitation" to "[a] residential telephone subscriber who has registered his or her telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the federal government."

59. 47 C.F.R. § 64.1200(e), provides that § 64.1200(c) and (d) "are applicable to any person or entity making telephone solicitations or telemarketing calls to wireless telephone numbers."<sup>21</sup>

60. 47 C.F.R. § 64.1200(d) further provides that "[n]o person or entity shall initiate any call for telemarketing purposes to a residential telephone subscriber unless such person or entity has instituted procedures for maintaining a list of persons who request not to receive telemarketing calls made by or on behalf of that person or entity."

61. Any "person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may" may bring a private action based on a violation of said regulations, which were promulgated to protect telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. 47 U.S.C. § 227(c).

62. Defendant violated 47 C.F.R. § 64.1200(c) by initiating, or causing to be initiated, telephone solicitations to telephone subscribers such as Plaintiff and the Do Not Call Registry Class members who registered their respective telephone numbers on the National Do Not Call Registry, a listing of persons who do not wish to receive telephone solicitations that is maintained by the federal government.

63. Defendant violated 47 U.S.C. § 227(c)(5) because Plaintiff and the Do Not Call

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<sup>21</sup> *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014 (2003) Available at [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-03-153A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-03-153A1.pdf)



Registry Class received more than one phone call/text message in a 12-month period by or on behalf of Defendant in violation of 47 C.F.R. § 64.1200, as described above. As a result of Defendant's conduct as alleged herein, Plaintiff and the Do Not Call Registry Class suffered actual damages and are entitled to between \$500 and \$1,500 per violation.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Vallianos, individually and on behalf of the Classes, prays for the following relief:

- a) An order certifying the Classes as defined above, and appointing Plaintiff as the representative of the Classes and her attorneys as Class Counsel;
- b) An award of actual and/or statutory damages and costs;
- c) An order declaring that Defendant's actions, as set out above, violate the TCPA;
- d) An injunction requiring Defendant to cease all unsolicited texting activity, and to otherwise protect the interests of the Classes; and
- e) Such further and other relief as the Court deems just and proper.

**JURY DEMAND**

Plaintiff Vallianos requests a jury trial.

Respectfully Submitted,

**CASSANDRA VALLIANOS**, individually and on behalf of those similarly situated individuals

Dated: March 28, 2019

s/ Eric R. Draluck

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15 *\*Pro Hac Vice motion forthcoming*